



## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Proposed 2025 Olmsted Power Marketing Plan

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of proposed 2025 Olmsted power marketing plan and announcement of public information and comment forum.

**SUMMARY:** Western Area Power Administration (WAPA), a federal Power Marketing Administration of the Department of Energy (DOE), is seeking comments on its proposed 2025 Olmsted Power Marketing Plan including the general power marketing criteria to be used as the basis for marketing the hydroelectric generation of the Olmsted Powerplant Replacement Project (Olmsted Project). The current Olmsted Power Marketing Plan will expire on September 30, 2024, and the proposed 2025 Olmsted Power Marketing Plan would take effect October 1, 2024.

**DATES:** The public comment period on the Proposed 2025 Olmsted Power Marketing Plan begins [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] and ends [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. To be assured of consideration, WAPA must receive all written comments by the end of the comment period.

WAPA will hold a virtual public information forum about this proposed marketing plan on Thursday, June 28, 2022, from 9:30 a.m. to 12:00 p.m. MDT. The virtual public comment forum is scheduled for the afternoon of the same day, Thursday, June 28, 2022, beginning at 1:00 p.m. MDT and concluding when comments are complete, or no later than 4:00 pm. MDT. Due to the COVID-19 pandemic, neither the public information nor comment forums will be held in-person. Information on the virtual meeting may be found on the Colorado River Storage Project (CRSP) website at: <https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/power-marketing.aspx>. WAPA will post webinar and dial in information at this link 14 days before the scheduled

forums.

**ADDRESSES:** Submit written comments about this proposed marketing plan to: Mr. Rodney Bailey, Acting CRSP Manager, CRSP Management Center (MC), Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401. Comments also may be e-mailed to *Olmsted-Marketing@wapa.gov* or faxed to 970-240-6282. All documentation developed or retained by WAPA for the purpose of developing the proposed marketing plan is available for inspection and copying at the CRSP MC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randolph Manion, CRSP Contracts and Energy Services Manager, *Manion@wapa.gov*, 720-201-3285. Written requests for information should be mailed to the CRSP Management Center at the **ADDRESSES** section.

**SUPPLEMENTARY INFORMATION:** WAPA is responsible for marketing power from CRSP, of which the Olmsted Project is a feature. WAPA is also responsible for marketing power from other CRSP projects which include the Salt Lake City Area Integrated Projects, the Falcon-Amistad Project, and the Provo River Project. CRSP operates approximately 2,316 miles of transmission line and associated infrastructure related to these federal hydroelectric projects across Arizona, New Mexico, Colorado, Utah, and Wyoming. This *Federal Register* notice formally initiates WAPA's public process and request for public comments on the proposed 2025 Olmsted Power Marketing Plan. WAPA will prepare and publish the final 2025 Olmsted Power Marketing Plan after considering public comments on the proposed marketing plan. This *Federal Register* notice is not a call for applications. A call for applications from those interested in an allocation of Olmsted Project power will occur in a future notice.

The Olmsted Project is located at the mouth of Provo Canyon in northern Utah and is part of the Central Utah Project, a participating project of CRSP. In 1987, the United States Department of the Interior, Bureau of Reclamation (Reclamation) secured ownership of the Olmsted Flowline, located in northern Utah, from PacifiCorp (formerly known as Utah Power and Light), and the associated water rights as an essential part of the Central Utah Project. In the related

1990 Settlement Agreement, the Olmsted facilities were acquired in condemnation proceedings by the United States and added to the Central Utah Project to better secure and develop water rights. As part of the condemnation proceedings, PacifiCorp continued Olmsted operations until September 22, 2015. Power generation at the site ceased on that date, and the Department of Interior (DOI) assumed responsibility for operating the Olmsted Project.

The continued operation of the Olmsted facilities is essential to maintaining the non-consumptive Olmsted water rights necessary for the Central Utah Project. A comprehensive evaluation of the 100-year-old project determined the facility greatly exceeded its operational life, and a replacement hydroelectric facility was necessary. On February 4, 2015, an Implementation Agreement (Agreement) for the Olmsted Project was signed by the Central Utah Water Conservancy District (District), Reclamation, DOE, and WAPA (Participants). The Agreement set forth the responsibilities of the Participants and how the Olmsted Project would be funded. The second quarter of calendar year 2016, pursuant to the Agreement, the District began construction of the 12-megawatt, \$42 million replacement hydroelectric facility and new power transmission line to the Provo Power system. Olmsted Powerplant construction was completed in July 2018 and started commercial power production in October 2018. The Olmsted Project is a federal facility operated and maintained by the District in connection with its Central Utah Project operations. The Olmsted Project is a “run-of-the-river” plant producing power only when water demands from downstream users necessitate water deliveries.

### **Current Marketing Plan Background**

WAPA published the Final 2018 Olmsted Power Marketing Plan and Call for Applications in the *Federal Register* on October 11, 2017 (82 FR 47201). The “Final Allocations of the Olmsted Powerplant Replacement Project” was published in the *Federal Register* on September 5, 2018 (83 FR 45121), and WAPA began marketing energy under the marketing plan on October 5, 2018. The Olmsted Project’s 3-year net generation average is 24,650,000 kilowatt-hours (kWh). This hydropower is currently marketed to Utah Municipal Power Agency; and the District, Lehi

City, Kaysville City, Weber Basin Water Conservancy District, and Springville City through the Utah Associated Municipal Power Systems (Customers). Customers with an allocation receive a proportional share of the energy and annually pay a proportional share of the operation, maintenance, and replacement (OM&R) expenses in 12 monthly installments.

### **Proposed 2025 Olmsted General Power Marketing Criteria**

In the proposed 2025 Olmsted Power Marketing Plan, WAPA proposes to offer a resource extension to existing Customers and a portion of the resource to new applicants under the following general marketing criteria:

- A. *Marketing Area:* Due to the relatively small size of the resource and its operating characteristics, eligible applicants must be located within the following counties in Utah: Davis, Juab, Morgan, Salt Lake, Summit, Utah, Weber, and Wasatch.
- B. *Resource Extensions and Resource Pool Allocations:* WAPA proposes to provide 95 percent of its available energy resource to existing Customers and to establish a resource pool up to 5 percent for eligible new preference entities and the “June Sucker” fish restoration efforts required by the Central Utah Project Completion Act. WAPA will take into consideration all existing federal hydropower allocations an applicant is currently receiving when determining each new allocation. Allocations of Olmsted Project energy will be determined solely by WAPA. Eligible applicant(s) who receive an allocation will be allocated a percentage of the annual energy output of the powerplant rather than fixed quantities of energy.
- C. *Eligible Applicants:* Eligible applicants must qualify as preference entities, in accordance with section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c). WAPA will provide allocations only to preference entities in the marketing area. WAPA, through a separate public process, will determine the amount of energy to allocate in accordance with the marketing criteria and administrative discretion under Reclamation Law (e.g., Reclamation Act of 1902, 32 Stat. 388, as amended). As operator of the Olmsted Power

Plant and as a result of priority status under the current marketing plan, the District will not be impacted by the 5 percent set aside for eligible new preference entities.

- D. *Preference Entities*: Municipalities, rural electric cooperatives, and political subdivisions including irrigation or other districts, and other governmental organizations that have electric utility status by October 1, 2023, and federally recognized Native American tribes are all preference entities in accordance with section 9(c) of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h(c)). A Native American applicant must be an “Indian Tribe” as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)). “Electric utility status” means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase federal power from WAPA on a wholesale basis.
- E. *Ready, Willing, and Able*: Eligible applicants must be ready, willing, and able to receive and distribute or consume energy from WAPA. “Ready, willing, and able” means the applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties permit the delivery of WAPA’s power.
- F. *Contract Obligations*: Eligible applicants that receive an allocation must execute electric service contracts within 6 months of receiving a contract offer from WAPA, unless WAPA agrees otherwise in writing. Furthermore, applicants must comply with all terms and conditions stated within that contract, including scheduling, accounting, and billing procedures; Energy Planning and Management Program requirements; General Power Contract Provisions; and power factor, among others.
- G. *Contract Term*: The term of the contract will be limited to 10 years. Resource extensions and new allocations would begin on October 1, 2024, and remain in effect through September 30, 2034. However, the contract will automatically renew for up to

two additional 5-year terms, commencing on October 1, 2034, and October 1, 2039, respectively, unless no later than 3 years before the beginning of an extension (by October 1, 2031, and October 1, 2036, respectively), any party to the contract gives written notice not to renew. If such notice is given, the automatic renewal option will be revoked, and all contracts will expire on September 30, 2034, or September 30, 2039, respectively.

- H. *Delivery Point:* The Olmsted Project is electrically interconnected to the City of Provo, Utah, distribution and transmission facilities (Provo System), and delivery of power to each Customer will be where the 12.47 Provo System interconnects at PacifiCorp's Hale Substation.
- I. *Transmission Beyond Delivery Point:* Any associated transformation/transmission beyond the delivery point at Hale Substation is the sole responsibility of each Customer. Eligible applicants that receive an allocation must have the necessary arrangements for transmission and/or distribution service in place by October 1, 2023.
- J. *Regional Transmission Organization:* Should PacifiCorp, as the balancing authority operator where the Olmsted Project is interconnected, join a full electricity market (e.g., Regional Transmission Organization and/or an Independent System Operator), and in joining that market create unintended delivery point/point of receipt financial impacts to the Olmsted Project, and/or other unintended financial impacts, such financial impacts will be included as part of the Olmsted operation expenses, and WAPA will work with the Customers in good faith in an attempt to minimize those financial impacts.
- K. *Rates and Payment:* Olmsted Project is a "take all, pay all" project (i.e. the Olmsted Project annual revenue requirement is not dependent upon the amount of energy available each year). For additional information see the Provisional Formula Rate Schedule Olmsted F-1, effective through May 6, 2023, under Olmsted Powerplant Replacement

Project-Rate Order No. WAPA-177, published in the *Federal Register* on May 7, 2018 (83 FR 20065).

## **Legal Authority**

WAPA is responsible for marketing the Federal power produced by the Olmsted Project, as well as the other participating projects of CRSP, in accordance with the following Acts of Congress: Reclamation Act of June 17, 1902 (Pub. L. 57-161) (32 Stat. 388), Revision of the Reclamation Act of August 4, 1939 (Pub. L. 76-260) (53 Stat. 1187), Colorado River Storage Project Act of April 11, 1956 (Pub. L. 84-485) (70 Stat. 105), Department of Energy Organization Act of August 4, 1977 (Pub. L. 95-91) (91 Stat. 565), Energy Policy Act of October 30, 1992 (Pub. L. 102-575) (106 Stat. 4600, 4605), as amended.

## **Availability of Information**

Documents developed or retained by WAPA during this public process will be available on WAPA's Website, by appointment, for inspection and copying at the CRSP MC at the ADDRESSES Section above. Written comments received as part of the Proposed 2025 Olmsted Power Marketing Plan formal public process will be available for viewing on CRSP's website.

## **Regulatory Procedure Requirements**

### *A. Review Under the National Environmental Policy Act (NEPA)*

WAPA has determined that this proposed action fits within the categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021 (B4.1 Contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.<sup>1</sup> Specifically, WAPA has determined that this rulemaking is consistent with activities identified in part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is

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<sup>1</sup> The determination was done in compliance with NEPA (42 U.S.C. 4321-4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

available on the CRSP website at:

<https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx>.

#### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, requires a federal agency to perform a regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking for any proposed rule, unless the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, a “rule” does not include “a rule of particular applicability relating to rates [and] services...or to valuations, costs or accounting, or practices relating to such rates [and] services...” 5 U.S.C. 601. WAPA has determined that this action relates to services offered by WAPA and, therefore, is not a rule within the purview of the RFA.

#### *C. Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866. Accordingly, no clearance of this notice by the Office of Management and Budget is required.

#### *D. Review Under Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), WAPA has received approval from the Office of Management and Budget to collect applicant data, under OMB control number 1910-5136.

### **Signing Authority**

This document of the Department of Energy was signed on [DATE], by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of



the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on May 24, 2022.

**Treena V. Garrett,**  
*Federal Register Liaison Officer,*  
*U.S. Department of Energy.*

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